

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

LARRY HOPE,

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Plaintiff,

)

)

v.

)

CASE NO.: 96-BE-2968-S

)

MARK PELZER, et al.,

)

)

Defendants.

)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Come now the Defendants Mark Pelzer, Gene McClaran and Keith Gates, by and through the undersigned counsel in the above styled action, and file this Motion for Summary Judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure. In support of this motion, the following grounds, severally or collectively, are submitted:

1. The Defendants are entitled to judgment as a matter of law;
2. The Plaintiff fails to establish an Eighth Amendment violation against these Defendants.

WHEREFORE, based on the foregoing, the Defendants respectfully request that this Honorable Court grant their Motion for Summary Judgment.

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RESPECTFULLY SUBMITTED,

TROY KING (KIN047)
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'Ellen Leonard', is written over a horizontal line.

ELLEN LEONARD (LEO008)
ASSISTANT ATTORNEY GENERAL

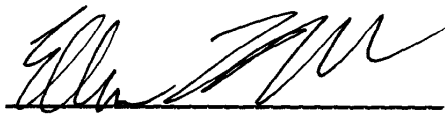
ADDRESS OF COUNSEL:
Office of the Attorney General
11 South Union Street
Montgomery, AL 36130
(334) 242-7555

CERTIFICATE OF SERVICE

I hereby certify that I have, this the 3rd day of November, 2004, served a copy of the foregoing upon Plaintiff's counsel, by placing same in the United States Mail, postage prepaid and properly addressed as follows:

Mr. Craig Jones, Esq.
Edmond & Jones, LLP
The Chandler Building, Suite 410
127 Peachtree Street, NE
Atlanta, GA 30303

Mr. James Mendelsohn, Esq.
Turberville Building
1117 22nd Street South
Birmingham, AL 35205

A handwritten signature in black ink, appearing to read 'Ellen Leonard', is written over a solid horizontal line.

ELLEN LEONARD
ASSISTANT ATTORNEY GENERAL